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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 23, 2009

Mr. Kevin D. Cherry  
Boston Renaissance Charter Public School  
250 Stuart Street  
Boston, Massachusetts 02116

Re: PCB Cleanup and Disposal Approval under 40 CFR §§ 761.61(a) and (c)

Dear Mr. Cherry:

This PCB Cleanup and Disposal Approval is issued in response to the Boston Renaissance Charter Public School (BRCPS) request for approval of its plans<sup>1</sup> to address PCB-contaminated soils on its property located at 1415 Hyde Park Avenue, Boston (Hyde Park), Massachusetts (the Site). The Site, which is being redeveloped for a charter school, contains PCB-contaminated soils that exceed PCB levels for *unrestricted use* under the federal PCB regulations at 40 CFR § 761.61. BRCPS has requested approval to clean up and dispose of the PCB-contaminated soils located at the Site under the PCB self-implementing cleanup and disposal option at 40 CFR § 761.61(a).

BRCPS proposes the following PCB cleanup and disposal activities:

- Remove all PCB-contaminated wastes at greater than ( $>$ ) 10 parts per million (ppm) and cover PCB-contaminated wastes less than or equal to ( $\leq$ ) 10 ppm beneath a clean asphalt and/or soil cap;
- Dispose of PCB-contaminated wastes at greater than or equal to ( $\geq$ ) 50 ppm at a TSCA-approved disposal facility;
- Dispose of PCB-contaminated wastes at  $< 50$  ppm at a RCRA non-hazardous waste landfill;
- Record a deed restriction to document that PCBs at  $> 1$  ppm remain at the Site and that a cap must be maintained.

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<sup>1</sup> Plans and additional information were submitted on behalf of BRCPS by McPhail Associates, Inc. to satisfy the notification requirements under 40 CFR §§ 761.61(a) and (c). Plans and information were provided dated October 8, November 10, November 18, December 2, and December 7, 2009. These submissions will be referred to as the "Notification."

The BRCPS Notification asserts that portions of the Site contain PCB-contaminated soils at > 1 ppm and < 50 ppm that were released prior to 1979, and therefore do not meet the definition of *PCB remediation waste* at 40 CFR § 761.3. This Approval does not address cleanup and disposal of the PCB-contaminated soils that do not meet the definition of *PCB remediation waste*. It is EPA's understanding that BRCPS proposes to clean up and dispose of the PCB-contaminated soils < 50 ppm in accordance with the Massachusetts Contingency Plan at 310 CMR 40.0000, and that the proposed PCB cleanup standard for such soils is consistent with the cleanup requirements under the federal PCB regulations at 40 CFR at § 761.61(a) for *high occupancy area* cleanups.

BRCPS's proposal meets the self-implementing option requirements at § 761.61(a)(3), with the exception of the alternative characterization sampling conducted for off-site disposal. In light of the Site history and the proposed removal and disposal plan, the applicant's use of an alternative characterization sampling method presents no unreasonable risk for the purposes of cleanup and off-site disposal. Accordingly, EPA approves the alternative characterization sampling under § 761.61(c).

BRCPS may proceed with its cleanup in accordance with §§ 761.61(a) and (c), its Notification, and this Approval, subject to the conditions of Attachment 1.

This Approval only addresses cleanup and disposal of the *PCB remediation waste* identified in the Notification. In the event that BRCPS identifies other PCB-contaminated wastes subject to cleanup and disposal under the PCB regulations, BRCPS will be required to notify EPA and cleanup the PCB-contaminated wastes in accordance with 40 CFR Part 761 (see Approval Condition 1.)

This Approval does not release BRCPS from any applicable requirements of federal, state or local law, including the requirements related to cleanup and disposal of the < 50 ppm PCB-contaminated soils or any other Site contaminants which are being addressed under the Massachusetts Department of Environmental Protection (MassDEP) regulations. EPA encourages BRCPS to continue to coordinate its proposed cleanup with MassDEP to insure that all necessary cleanup requirements are met.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mail Code: OSRR07-2  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Finally, EPA strongly encourages additional outreach activities by the BRCPS for the school community and the neighborhood on the remediation work. This outreach effort should be coordinated with EPA and Mass DEP, and may include activities such as newsletters, informational meetings, and use of the school's website.

Sincerely,

A handwritten signature in dark ink, appearing to read 'James T. Owens, III', with a stylized flourish at the end.

James T. Owens, III, Director  
Office of Site Remediation & Restoration

Attachment 1

cc: C. Pyott, Mass DEP (RTN: 3-28835)  
A. Donovan, McPhail Associates, Inc.  
H. Berlis, McPhail Associates, Inc.  
File



**ATTACHMENT 1:**

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
BOSTON RENAISSANCE CHARTER PUBLIC SCHOOL  
1415 HYDE PARK AVENUE  
BOSTON (HYDE PARK), MASSACHUSETTS**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* located at the Site as identified in the Notification.
  - a. In the event that Boston Renaissance Charter Public School (BRCPS) identifies other areas of the Site that are contaminated with PCBs at greater than (>) 1 part per million (ppm), a separate cleanup plan shall be submitted for EPA review and approval in accordance with § 761.61, or BRCPS may request a modification to its Notification in accordance with Condition 16 of this Approval.
  - b. In the alternative, BRCPS may submit documentation that cleanup of the PCB contamination is not required or regulated under TSCA and the federal PCB regulations at 40 CFR Part 761. This does not preclude the applicability of regulatory requirements under the Massachusetts Department of Environmental Protection (Mass DEP) regulations.
2. BRCPS shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. BRCPS must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, BRCPS shall contact EPA within 24 hours for direction on sampling and cleanup requirements.

6. BRCPS is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time BRCPS has or receives information indicating that BRCPS or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by BRCPS are authorized to conduct the activities set forth in the Notification. BRCPS is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release BRCPS from compliance with any applicable requirements of federal, state or local law; or 3) release BRCPS from liability for, or otherwise resolve, any violations of federal, state or local law.

**NOTIFICATION and CERTIFICATION CONDITIONS**

9. This Approval may be revoked if the EPA does not receive written notification from BRCPS of its acceptance of the conditions of this Approval within 10 business days of receipt.
10. BRCPS shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
11. Prior to initiating onsite work under this Approval, BRCPS shall submit the following information:
  - a. a certification signed by its selected remediation contractor, stating that the contractor has read and understands the Notification, and agrees to abide by the conditions specified in this Approval; and,
  - b. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the sample extraction, analytical and quality assurance requirements specified in the Notification and in this Approval.



## **REMEDIAL and DISPOSAL CONDITIONS**

12. The following sampling and analytical requirements shall apply to verify identification and removal of *PCB remediation waste* from the Site.
  - a. *Bulk PCB remediation waste* samples (i.e. soils) shall be collected on a bulk basis (i.e. mg/Kg) and PCB analytical results shall be reported on a dry weight analysis.
  - b. To verify removal of PCB-contaminated wastes at greater than or equal to ( $\geq$ ) 50 ppm, post-excavation confirmatory PCB samples shall be collected in accordance with 40 CFR 761, Subpart O; samples shall be collected from both excavation bottoms and sidewalls, if applicable. Composite samples may not be used for segregation of  $\geq$  50 ppm PCB-contaminated wastes from less than ( $<$ ) 50 ppm PCB-contaminated wastes.
13. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.
14. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:
  - a. Non-liquid cleaning materials, such as PPE and similar materials resulting from decontamination, shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
  - c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.70.

## **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

15. BRCPS shall allow any authorized representative of the Administrator of the EPA to inspect the Site, to inspect records, and to take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by BRCPS to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.

16. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
17. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
18. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
19. Approval for these activities may be revoked, modified or otherwise altered: if EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; or, if EPA finds that these activities present an unreasonable risk to public health or the environment.

#### **RECORDKEEPING AND REPORTING CONDITIONS**

20. BRCPS shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the cleanup and the analytical sampling shall be established and maintained by BRCPS in one centralized location until such time as EPA authorizes, in writing, an alternative disposition for such records. All records shall be made available for inspection by authorized representatives of EPA.
21. BRCPS shall submit a final report to EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this final report shall include: a short narrative of the cleanup and disposal activities; characterization and confirmation sampling analytical results (as applicable); copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of and the size of the remediated area(s); copies of manifests; and copies of certificates of disposal or similar certifications issued by the disposer.

22. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mail Code: OSRR07-2  
Boston, Massachusetts 02109-3912

23. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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**END OF ATTACHMENT 1**